

Message Text

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ACTION EA-09

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DOD WASHDC

NAVY JAG WASHDC

CSAF (JACI) WASHDC

JCS WASHDC

CNO WASHDC

CINCPACAF

C O N F I D E N T I A L MANILA 12624

CINCPAC FOR POLAD

E.O. 11652: GDS

TAGS: MARR, RP

SUBJECT: NEX SEARCH AT SUBIC: RECENT DEVELOPMENTS

REF: () STATE 205008, (B) MANILA 5031, (C) COMNAVBASE SUBIC
BAY RP 170910Z AUG 76 (NOTAL) (D) COMNAVBASE SUBIC BAY RP
191030Z AUG 76 (NOTAL)

BEGIN SUMMARY: PARTIES IN NEX SEARCH CASE NOW AWAITING
RULING BY OLONGAPO CITY JUDGE ON MOTION FILED BY FISCAL
THAT ISSUANCE OF ARREST WARRANT FOR CDR VERPLAETSE BE
DEFERRED PENDING BILATERAL DISCUSSIONS ON OFFICIAL DUTY
CERTIFICATE. JUDGE IS EXPECTED TO RULE FAVORABLY ON
THIS MOTION. WHILE WE SUSPECT THAT ATTENTION DEVOTED BY
PRESS TO THIS AND OTHER INCIDENTS AT BASES IS RELATED
TO ONGOING BASE NEGOTIATIONS, EFFECT ON NEGOTIATIONS AT
PRESENT JUNCTURE HAS NOT BEEN SIGNIFICANT. END SUMMARY.
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1. UPDATE OF DEVELOPMENTS IN NAVY EXCHANGE SEARCH CASE (SEE REF. B) FOLLOWS: THE INVESTIGATING FISCAL (PRO-SECUTOR) DISMISSED CHARGES OF SLANDER BY DEED AND GRAVE COERCION AGAINST CDR VERPLAETSE AND THREE CIVILIAN NEX EMPLOYEES MAY 3, BUT RESOLVED TO FILE A SINGLE COUNT FOR UNJUST VEXATION (A MISDEMEANOR) AGAINST EACH OF ACCUSED. FISCAL FILED INFORMATION MAY 12 WITH OLONGAPO CITY COURT ALLEGING UNJUST VEXATION. FISCAL INCLUDED VERPLAETSE IN THE INFORMATION BECAUSE HE FELT THIS WAS NECESSARY TO PROTECT INTERESTS OF GOP IN THE EVENT OFFICIAL DUTY CERTIFICATES FILED ON VERPLAETSE'S BEHALF ARE NOT HONORED. STANDARD ARREST WARRANT FOR FOUR ACCUSED WAS FORWARDED TO THE STAFF JUDGE ADVOCATE AT SUBIC MAY 12. WARRANT WAS RETURNED SERVED ON (SIGNED BY) THE THREE CIVILIANS ACCUSED, BUT UNSERVED ON VERPLAETSE, CITING AS REASON THE FILING OF OFFICIAL DUTY CERTIFICATE. ON JUNE 9 THE OFFICIAL DUTY CERTIFICATE WAS DISCUSSED AT THE REQUEST OF THE PHILIPPINE GOVERNMENT AT A REGULAR QUARTERLY MEETING OF THE US-RP CRIMINAL JURISDICTION IMPLEMENTATION COMMITTEE, BUT DISCUSSION WAS INCONCLUSIVE. IT IS ANTICIPATED THAT FURTHER DISCUSSIONS WILL BE HELD AT NEXT COMMITTEE MEETING SCHEDULED FOR SEPTEMBER 10.

2. DEFENSE COUNSEL MOVED JULY 8 THAT THE CASES OF THREE CIVILIANS ACCUSED BY SEVERED FROM THAT OF VERPLAETSE, AND MOTION WAS GRANTED BY TRIAL JUDGE. ON JULY 27, ATTORNEY JUNGCO, WHO IS ACTING AS PRIVATE PRO-SECUTOR, MOVED FOR RECONSIDERATION AND INSISTED VERPLAETSE BE TRIED WITH OTHERS. JUDGE DENIED THIS MOTION AUGUST 12, BUT STATED THAT AN ALIAS WARRANT FOR HIS ARREST WOULD BE ISSUED AND INDICATED IT WOULD BE DIRECTED TO THE PROVINCIAL PC COMMANDER. AFTER PRIVATE DISCUSSION BETWEEN SENIOR FILIPINO ATTORNEY EMPLOYED BY SUBIC AND TRIAL JUDGE, LATTER AGREED NOT TO ISSUE ARREST WARRANT UNTIL AUGUST 16. FOLLOWING CONFERENCE WITH UNDERSECRETARY OF JUSTICE IN MANILA, FISCAL FILED A MOTION AUGUST 16 TO DEFER ISSUANCE OF WARRANT PENDING OUTCOME OF TALKS BETWEEN THE TWO GOVERNMENTS ON OFFICIAL DUTY CERTIFICATE. JUDGE WILL CONSIDER THIS MOTION CONFIDENTIAL

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AUGUST 25, AND IS EXPECTED TO RULE FAVORABLY.

3. MANILA DAILY "BULLETIN TODAY" HAS BEEN FOLLOWING CASE CLOSELY OVER PAST TWO WEEKS. AUGUST 9 EDITION RAN BACKPAGE HEADLINE "ISSUE OF 'JURISDICTION' BOILS UP ANEW AT SUBIC." ARTICLE STATED THAT "TICKLISH QUESTION" OF CRIMINAL JURISDICTION OVER US SERVICEMEN "RESURFACED WHEN THE WARRANT FOR VERPLAETSE'S ARREST WAS RETURNED

UNSERVED BY US NAVAL AUTHORITIES ON THE GROUND THAT THE VALIDITY OF THE DUTY CERTIFICATE ISSUED BY THEM FOR THE PX OFFICER HAS NOT YET BEEN RESOLVED BY THE APPROPRIATE AUTHORITIES OF THE TWO GOVERNMENTS ON THE DIPLOMATIC LEVEL." AUGUST 15 "BULLETIN," UNDER HEADLINE "OLONGAPO COURT TELLS PC TO ARREST USN OFFICER," REPORTED THAT VERPLAETSE CASE HAD "TAKEN A NEW TURN" WHEN OLONGAPO CITY DUDGE REISSUED ARREST WARRANT AND DIRECTED ZAMBALES PC COMMANDER TO EFFECT ARREST.

4. COMMENT: THERE IS NO CLEAR INDICATION THAT CURRENT DEVELOPMENTS ON NEX SEARCH CASE ARE DIRECTLY LINKED TO NEGOTIATIONS. HOWEVER, WE SUSPECT THAT THE EXTENSIVE AND USUALLY SENSATIONALIZED LOCAL PRESS COVERAGE OVER PAST FEW MONTHS OF INCIDENTS AT BASES DOES RELATE TO THE NEGOTIATIONS. PROVINCIAL PAID-BY-THE-LINE STRINGERS OF THE MAJOR DAILIES HAVE GREATER INCENTIVE TO PRODUCE STORIES UNFAVORABLE TO THE US MILITARY PRESENCE HERE, SINCE THERE NOW IS GOOD CHANCE THE STORIES WILL BE PROMINENTLY FEATURED IN THE GUIDED MANILA PRESS. THE PRESS USES THESE INCIDENTS 1) TO ECHO THE POPULAR THEME THAT THE GOP MUST TAKE MORE CONTROL OVER THE BASES TO PROTECT THE DIGNITY AND HONOR OF THE FILIPINO PEOPLE, AND 2) TO PROVIDE A NOT-SO-SUBTLE REMINDER THAT THE FILIPINOS CAN MAKE THINGS VERY DIFFICULT FOR OUR MILITARY BASES HERE IF THEY CHOOSE. MOST RECENT EXAMPLES HAVE BEEN STORIES CARRIED IN PRESS DURING PAST WEEK OF COMPLAINTS OF "ATROCITIES" COMMITTED AGAINST FILIPINO INTRUDERS BY CLARK SECURITY FORCES AND (-9 CORPS DOGS AND OF THE FILING OF TRESPASSING, ILLEGAL SEARCH, AND ROBBERY CHARGES AGAINST FIVE CLARK OSI AGENTS BY LOCAL

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FISCAL FOR ALLEGEDLY SEARCHING AN OFF-BASE HOUSE IN ANGELES CITY IN THE COURSE OF AN INVESTIGATION. PRESS HARASSMENT OF THIS SORT IS ANNOYING, OF COURSE, BUT SO FAR HAS HAD LITTLE OBSERVABLE IMPACT ON THE NEGOTIATIONS THEMSELVES.

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